

ESTTA Tracking number: **ESTTA266996**Filing date: **02/17/2009**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	TRP Entertainment, LLC		
Entity	limited liability company	Citizenship	Nevada
Address	7910 Bermuda Road Las Vegas, NV 89123 UNITED STATES		

Attorney information	Matthew D. Francis Watson Rounds 5371 Kietzke Lane Reno, NV 89511 UNITED STATES mfrancis@watsonrounds.com Phone:775-324-4100
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Registration Subject to Cancellation

Registration No	3220387	Registration date	03/20/2007
Registrant	Direct From Vegas Productions, Inc. 7871 Colgate Ave Westminster, CA 92683 UNITED STATES		

Goods/Services Subject to Cancellation

Class 041. First Use: 2003/10/09 First Use In Commerce: 2003/10/09 All goods and services in the class are cancelled, namely: Entertainment services, namely live and televised appearances by a professional entertainer, live performances by a musical band and live music concerts

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	2640066	Application Date	05/17/1999
Registration Date	10/22/2002	Foreign Priority Date	NONE
Word Mark	THE RAT PACK IS BACK		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 041. First use: First Use: 2001/10/25 First Use In Commerce: 2001/10/25 entertainment services, namely, live stage musical productions
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Attachments	Petition for Cancellation.pdf (4 pages)(125434 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Matthew D. Francis/
Name	Matthew D. Francis
Date	02/17/2009

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

TRP ENTERTAINMENT, LLC, a Nevada limited liability company, Petitioner, v. DIRECT FROM VEGAS PRODUCTIONS, INC., a California corporation, Registrant.	Registration No.: 3220387 Mark: DIRECT FROM VEGAS THE RAT PACK Cancellation No.:
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PETITION FOR CANCELLATION

Petitioner, TRP Entertainment, LLC (“TRP” or “Petitioner”), believes it will be damaged by the continued registration of Registration No. 3220387 (“387 Reg.”) for the designation “DIRECT FROM VEGAS THE RAT PACK” owned by Direct From Vegas Productions, Inc. (“Registrant”), and therefore petitions the Board to cancel same. Pursuant to 37 C.F.R. §§ 2.111 and 2.112(a), and as grounds for cancellation, Petitioner alleges as follows:

1. Petitioner is a Nevada corporation with its principal place of business located at 7910 Bermuda Road, Las Vegas, NV 89123.
2. Upon information and belief, Registrant is a California corporation located at 7871 Colgate Avenue, Westminster, CA 92683.
3. TRP is the assignee and owner of all rights, title, and interest in the mark “The Rat Pack is Back” (the “Mark”) and corresponding incontestable Registration No. 2640066 (“066 Reg.”), which covers entertainment services, namely live stage musical productions in International Class 41.
4. Since the adoption of the Mark, the Mark has been used continuously. Further, since the Mark’s adoption and use, millions of dollars have been spent advertising and promoting the Mark and accompanying live stage musical productions, hundreds of thousands of people

have seen the shows, and TRP has made millions of dollars from its shows.

5. Since approximately May of 2006, TRP has continuously used the Mark in commerce in Nevada, and in numerous other states pursuant to its previous license/enforcement agreement with its former licensor, DRDC Production, Inc. (“DRDC”). Prior to assigning the Mark to TRP in April of 2008, DRDC used that Mark in commerce since 1999.

6. Prior to Registrant’s infringing uses of the Mark, the Mark had become recognized and relied upon by consumers as identifying the quality entertainment services and goods of TRP (and DRDC) and distinguishing those services and goods from the services and goods of others. The Mark therefore represents the goodwill belonging exclusively to TRP.

7. On August 18, 2003, Registrant filed Application Serial No. 76538531 (“’531 App.”) for the mark “Direct from Vegas The Rat Pack” in International Class 41 (Entertainment services, namely live and televised appearances by a professional entertainer, live performances by a musical band and live music concerts).

8. The ‘531 App. matured into the ‘387 Reg. on March 20, 2007.

9. Petitioner will be damaged by the continued registration of the ‘387 Reg. because the “Direct from Vegas The Rat pack” mark so resembles Petitioner’s Mark as to be likely to cause consumer confusion, mistake, and/or deception in the minds of the purchasing public. The purchasing public is likely to assume that the services identified by Registrant are sold by Petitioner, or that such services originate with, or are authorized or approved by, or in some way connected to, Petitioner, in violation of 15 U.S.C. §§ 1052(d) and 1125(a).

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10. For the foregoing reasons, the '387 Reg. should therefore be cancelled pursuant to 15 U.S.C. § 1064.

WHEREFORE, Petitioner prays that Registrant's Registration No. 3220387 be cancelled.

Dated: February 17, 2009

Respectfully Submitted,

By: 
Michael D. Rounds
Matthew D. Francis
WATSON ROUNDS
5371 Kietzke Lane
Reno, Nevada 89511
(775) 324-4100

Attorneys for Petitioner TRP Entertainment,
LLC

CERTIFICATE OF SERVICE

I certify that I am an employee of the Law Offices of Watson Rounds, a Professional Corporation, and on this day I deposited a true and correct copy in the United States mail, first class postage prepaid, of the within document entitled **Petition for Cancellation**, addressed as follows:

Direct From Vegas Productions, Inc.
7871 Colgate Avenue
Westminster, CA 92683

Crystal A. Zarpas
Mann & Zarpas LLP
15233 Ventura Blvd. Ste. 714
Sherman Oaks, CA 91403

Dated: February 17, 2009

